



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,902	12/21/2001	Lisa Baker	PGI6044P0291US	5142

32116 7590 03/09/2004

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

EXAMINER

STEPHENS, JACQUELINE F

ART UNIT PAPER NUMBER

3761

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/036,902		BAKER, LISA	
	Examiner		Art Unit	
	Jacqueline F Stephens		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____:
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(a) as being anticipated by Lucas et al. USPN 5874067 in view of Jungermann et al. 4839808 and in view of Chou et al. USPN 5710214– see MPEP 2131.01 II regarding multiple reference 102 rejections to explain the meaning of a term used in the primary reference.

As to claims 1 and 2, Lucas discloses a composition for controlling odor produced by human waste retained in a disposable hygiene product (Lucas discloses the composition can be in a wipe col. 11, lines 15-30), comprising an hydroxydiphenyl ether in a modified acidic carrier. Lucas discloses the wipe comprises Triclosan and citric acid (col. 12, lines 5-20 – Example II; and 41-49). Jungerman et al. 4839808 teaches Triclosan is a 2-hydroxy 2', 4,4'-tri-chlorodipheyl ether (col.2, lines 4-6). Chou et al. USPN 5710214 teaches citric acid is an aliphatic acid (col. 3, lines 7-21). The

Art Unit: 3761

composition of Lucas is provided on a base substrate material, such as a nonwoven, by being topically applied to the substrate (Lucas col. 11, lines 15-30).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas et al. USPN 5874067.

As to claim 6, Lucas discloses the method for controlling odor substantially as claimed. However, Lucas does not disclose the step of forming the treated base substrate material into a component material after applying the odor control compound. However, Lucas discloses the odor control compound can be used for removing body odor, such as urine or vaginal discharge (col. 2, lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the compound of Lucas to a substrate to subsequently be formed into a disposable sanitary product, such as a diaper or feminine hygiene napkin since Lucas discloses the compound is effective in removing the types of odors that would typically be deposited on absorbent articles.

Art Unit: 3761

As to claim 7, Lucas discloses the compound is deposited on nonwoven substrates (col. 11, lines 26-29).

As to claim 8, Lucas discloses the method for controlling odor substantially as claimed. However, Lucas does not disclose the steps providing a base substrate material containing a hydroxydiphenyl ether and applying a modified acidic carrier to the base substrate, and subsequently forming the treated base substrate material into a component material after applying the odor control compound. However, Lucas discloses a compound, which includes a hydroxydiphenyl ether and modified acidic and Lucas discloses adding the compound to a base substrate.

As disclosed in applicant's specification page 4, line 23 through page 5, line 3 the hydroxydiphenyl ether can be mixed with the acidic carrier and applied to the substrate, or can be formed as part of the substrate and the acidic carrier applied thereafter. It would have been an obvious matter of design choice to apply the mixture of the acidic carrier to the substrate containing the hydroxydiphenyl ether, since such a modification would have involved a mere change in the order of the steps and the end structure is the same. Applicant has not disclosed that applying the acidic carrier to the substrate containing the hydroxydiphenyl ether as compared to applying the mixture of the hydroxydiphenyl ether and the acidic carrier to the substrate solves any stated problem or is for any particular purpose and it appears the invention would perform equally well with either method.

Lucas does not disclose the step of forming the treated base substrate material into a component material after applying the odor control compound. Lucas discloses the odor control compound can be used for removing body odor, such as urine or vaginal discharge (col. 2, lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the compound of Lucas to a substrate to subsequently be formed into a disposable sanitary product, such as a diaper or feminine hygiene napkin since Lucas discloses the compound is effective in removing the types of odors that would typically be deposited on absorbent articles.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas in view of Chou. Lucas discloses the present invention substantially as claimed except that Lucas discloses a citric acid as the aliphatic acid instead of a hexanedioic acid. Chou shows that citric acid is an equivalent structure known in the art (Chou col. 3, lines 7-19). Therefore, because these two aliphatic acids are art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute hexanedioic acid for citric acid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens
Examiner
Art Unit 3761



March 1, 2004